



July 11, 2000

Ms. Lan P. Nguyen
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR2000-2588

Dear Ms. Nguyen:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 136982.

The City of Houston (the "city") received a request for various information, categorized into a list of eleven items, related to the 611 Walker project. You state that the city will release a portion of the responsive information, but argue that the information responsive to item one is excepted from disclosure. In item one, the requestor asks for "[a]ny completed report, audit, evaluation, or investigation made for or by [the city] related to the 611 Walker project" which in "in any way" involves LVI Environmental Services ("LVI") or Payless Insulation, Inc. ("Payless"). You argue that this information is excepted from disclosure pursuant to sections 552.103(a), 552.107(1), and 552.108 of the Government Code. You have submitted the responsive information for our review. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) excepts from public disclosure information which would "interfere with the detection, investigation, or prosecution of crime[.]" You state that the submitted information consists of an open criminal investigative file in the custody of the Office of the Inspector General ("OIG") of the Houston Police Department. You explain that the investigative file concerns alleged criminal violations and unethical conduct by city employees in connection with the use of funds for renovation projects of a city building. You state that criminal charges have been referred to the District Attorney's Office for prosecution and a criminal investigation is still ongoing. You have submitted an affidavit of an assistant district attorney which states that the information relates to over twenty pending cases, some of which are currently set for trial. Based upon this representation and a review of the submitted documents, we find that most of the requested information is excepted from disclosure pursuant to section 552.108(a)(1).

However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. *See* Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the requested report.¹ Thus, with the exception of the basic front page offense information, you may withhold the requested information from disclosure based on section 552.108(a)(1). Although section 552.108(a)(1) authorizes you to withhold the remaining information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007. As section 552.108 is dispositive, we need not address your other claimed exceptions.

This letter ruling is limited to the particular records at issue in this request and to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at

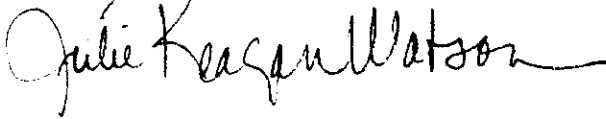
¹Generally, basic information may not be withheld from public disclosure under section 552.103. Open Records Decision No. 362 (1983).

877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink that reads "Julie Reagan Watson". The signature is fluid and cursive, with the first name "Julie" being the most prominent.

Julie Reagan Watson
Assistant Attorney General
Open Records Division

JRW/pr

Ref: ID# 136982

Encl. Submitted documents

cc: Ms. Tammy C. Manning
Galligan & Manning
802 West. Alabama
Houston, Texas 77006
(w/o enclosures)